85-1584

Supreme Court, U.S.
FILED
FEB 25 1986
JOSEPH F. SPANIOL, JR.
CLERK

UNITED STATES SUPREME COURT

1 FIRST STREET NORTHEAST

WASHINGTON, D.C. 20543

OCTOBER TERM, 1985

PETER S. NIEDZWIECKI,

- Appellant,

-against-

CIRCUIT PROTECTIVE DEVICES,
DIVISION OF WESTINGHOUSE ELECTRIC CORP.

- Appellee.

APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE SECOND CIRCUIT

APPELLANT'S JURISDICTIONAL STATEMENT

PETER S. NIEDZWIECKI
Appellant, Pro Se
231 West Avenue
Bridgeport, CT 06604
(203) 336-4075

39pp

QUESTIONS PRESENTED

1. Whether the N.L.R.B.'s final judgment dismissing a complaint is reviewable by a court at least where that judgment concedes that the appellant had demonstrated a prima-facie case, solely because respondent has asserted an alleged legitimate business reason in its defense.

2. Whether the statute of limitations for starting actions under the National Labor Relations Act, Section 301, Title 29 U.S.C. Section 185(a) is governed solely by Delcostello v. International Brotherhood of Teamsters, 462 U.S. 151 (1983).

3. Whether the appellant has the right to bring an action under the ruling of Vaca v. Sipes, 386 U.S. 171 (1967).

4. Whether filing a charge with the N.L.R.B. tolls the statute of limitations for filing a civil action. Guerra v. Manchester Terminal, 498 F.2d 641 (1974)

5. Whether a letter to Appellant's congressman tolls the statute of limitations for filing a civil suit.

6. Whether the state of Connecticut statute of limitations on contracts governs the instant case because the contract bargaining agreement contained an unavailable and unused arbitration clause. Auto Workers v. Hoosier 383 U.S. 696 (1966)

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UNITED STATES SUPREME COURT

1 FIRST STREET NORTHEAST

WASHINGTON, D.C. 20543

OCTOBER TERM, 1985

PETER S. NIEDZWIECKI,

- Appellant,

-against-

CIRCUIT PROTECTIVE DEVICES,
DIVISION OF WESTINGHOUSE ELECTRIC CORP.

- Appellee.

APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE SECOND CIRCUIT

APPELLANT'S JURISDICTIONAL STATEMENT

PETER S. NIEDZWIECKI
Appellant, Pro Se
231 West Avenue
Bridgeport, CT 06604
(203) 336-4075

UNITED STATES SUPREME COURT

1 FIRST STREET NORTHEAST

WASHINGTON, D.C. 20543

PETER S. NIEDZWIECKI

PLAINTIFF-APPELLANT :

PRO-SE : DOCKET NO. 85-7344

v. :

CIRCUIT PROTECTIVE :

DEVICES :

Div. of Westinghouse :

Electric Corp. :

DEFENDANT-APPELLEE :

: March 20, 1986

APPELLANT'S JURISDICTIONAL STATEMENT

1.

(A.) Review is hereby requested in Niedzwiecki vs. Circuit Protective Devices Docket No. 85-7344 (2D Cir. 1985) (in formal opinion) (Copy attached)

(B.) (1) This civil action is brought under § 301 of the Wagner Act Title 29 USC § 185 a

(2) The date of the judgment is November 25, 1985.

(3) The Notice of Appeal was given on February 21st 1986. (copy attached)

(4) Jurisdiction is sought under 28 U.S.C. 2101

(5) The following rulings apply

(a) Associated Builders & Contractors, Inc. etc. v. Irving, 610 F 2d 1221 (5th Cir. 1979)

(b) Bova v. Pipefitters & Plumbers Local 60 554 F 2d 226 (5th Cir. 1977)

(c) Hennepin Broadcasting Associates, Inc. v. N.L.R.B., 408 F. Supp. 932 (D.C.Minn. 1975)

(d) N.L.R.B. v. Brotherhood Of Electrical Workers, 445 F. 2d 1015 (9th Cir. 1971)

(6) National Labor Relations Act, Section 301, Title 29 U.S.C. § 185 (a) provides:

Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this chapter, or between any such labor organizations, may be brought in any District Court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(C.) There are two issues in this case:

(1) Whether N.L.R.B.'s final judgment dismissing a complaint is reviewable by a court at least where that judgment concedes that Appellant had demonstrated a prima- facie case, solely because respondent has asserted an alleged legitimate business reason in it's defense?

(2) Whether the Statute of Limitations for starting actions under National Labor Relations Act, Section 301, Title 29 U.S.C. § 185(a) is governed solely by

Delcostello v. International Brotherhood of Teamsters, 462 U.S. 151 (1983)?

(D.) Appellant was employed by Appellee from October, 1975 to September 17, 1981. Concurrently during his employment, Appellant served as the local union president of the United Electrical Radio and Machine Workers Union for one term running from December of 1979 to December of 1980. Appellant was discharged on September 17, 1981. Thus Appellant was discharged after his tenure as union president had ended. However, the N.L.R.B. had specifically found that Appellant had demonstrated a prima-facie case of employer discrimination, in violation of 8(a)(1) 8(a)(3) and 8(a)(4) of the National Labor Relations Act.

However the N.L.R.B. had additionally found that the Appellee had asserted an alleged legitimate business reason for Appellee's actions, and that under the

Wright Line Test, 251 N.L.R.B. 1083 (1980) Appellant could not prevail at a hearing.

Therefore the N.L.R.B. dismissed the complaint. Subsequently, the case was reopened and Appellant believes remained open in Relation to the Statute of Limitations for Filing a court action until May 1st of 1984.

On September 6, 1984, Appellant brought suit in State Superior Court against Appellee.

Appellee obtained removal from the State Court to the District Court for the District of Connecticut on October 4, 1984.

The District Court of Connecticut granted summary judgment in favor of Appellee on March 26, 1985.

Appellant appealed to the U.S. Court of Appeals Second Circuit on April 25, 1985. The Second Circuit rendered

their decision on November 25, 1985, affirming the decision of the District Court.

(E.) (1) This case presents very important constitutional questions as to the limits of the Delcostello 462 U.S. 151 (1983) holding. Where the State Court action is for Breach of Contract rather than for Breach of Fiduciary duty. Specifically should the six month Statute of Limitations apply?

(2) Additionally, this case presents the constitutional issue whether an N.L.R.B. order dismissing a case prior to holding a hearing, is reviewable, by a court at least where it is clear that the Appellant has clearly presented a prima-facie case to the N.L.R.B. against the Appellee.

(F.) Both questions present broad problems of the roles of the Federal and the State Governments respectively in

Interstate Labor Management Relations, under the N.L.R.B. decisions of the United States Supreme Court.

Respectfully submitted,

By_____

Peter S. Niedzwiecki
231 West Avenue
Bridgeport, CT 06604
(203) 336-4075
APPELLANT

At Bridgeport, Connecticut
March 20, 1986

APPENDIX

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF CONNECTICUT

PETER S. NIEDZWIECKI	)	
PLAINTIFF	)	
v.	)	CIVIL NO. B84-648
CIRCUIT PROTECTIVE DEVICES, Div. of Westinghouse Electric Corp.	)	NOTICE OF APPEAL
	)	April 25, 1985

NOTICE OF APPEAL

Notice is hereby given that I Peter S. Niedzwiecki, plaintiff above named, hereby appeals to The United States Court of Appeals for the Second Circuit from the summary judgment which order is dated March 26, 1985 and entered in the clerk's office in New Haven, Connecticut, on March 26, 1985.

By _____

Peter S. Niedzwiecki
231 West Avenue
Bridgeport, CT 06604
(203) 336-4075
PLAINTIFF

Bridgeport, Connecticut
April 25, 1985

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

PETER S. NIEDZWIECKI)

v.) CIVIL NO. B84-648

CIRCUIT PROTECTIVE DEVICES, Div. of Westinghouse Electric Corp.)

MEMORANDUM OF DECISION

Plaintiff initially brought this action pro se in state court on or about September 6, 1984. The action was removed to federal court on petition by defendant, pursuant to 28 U.S.C. §§ 1441(a) and (b) and 1446. Plaintiff's complaint, liberally construed, alleges that he was discharged by the defendant on September 17, 1981, in retaliation for his union activities and in violation of the collective bargaining agreement ("CBA") then in effect between the defendant and the United Electrical Radio and Machine

Workers of America (the "Union"). Because the plaintiff has responded to the motion to dismiss by submitting matters outside the pleadings, the motion shall be treated as one for summary judgment. Rule 12(b), Federal Rules of Civil Procedure.

The defendant has attacked plaintiff's claims of retaliation as being pre-empted by the National Labor Relations Act ("NLRA"), 29 U.S.C. § 158, which vests exclusive jurisdiction to hear such claims in the National Labor Relations Board (the "NLRB"). Defendant also moves to dismiss the allegations based upon breach of the CBA as time-barred. Because the court agrees with the legal arguments presented by defendant, the motion to dismiss is granted.

I. Factual Background

Plaintiff was employed by defendant from 1975 until his discharge in September of 1981. During a period of his employment by defendant, plaintiff served as president of his local union. After losing his bid for re-election as local president, plaintiff alleges that he became the target of continuing harassment by defendant until he was ultimately discharged for failing to complete an assignment. Plaintiff's local union appealed plaintiff's dismissal through the third level of the grievance procedure established by the CBA. When the defendant denied the grievance, the Union chose not to proceed to arbitration despite plaintiff's request that it do so.

Plaintiff filed charges with the NLRB, claiming that he was discharged in retaliation for his union activity. On April 20, 1982, the NLRB's investigating

officer found insufficient grounds to substantiate plaintiff's charges. Plaintiff's appeal of this determination was denied on June 23, 1982. Plaintiff's motions for reconsideration were also denied on September 9, 1982, and again on November 23, 1983. On March 20, 1984, plaintiff wrote to his congressman, requesting intervention on his behalf with the NLRB. On May 1, 1984, plaintiff's congressman wrote back indicating that he was unable to provide any further assistance.

II. Retaliation Claim

Part of plaintiff's complaint appears to claim that his discharge was in retaliation for his union activities and discrimination against him as a union member. If true, the defendant's actions would be barred by sections 8(a)(3) and (4) of the NLRA, 29 U.S.C. §§ 158(a)(3) and (4). Charges which are "arguably

subject to § 7 or § 8 of the Act" are within the exclusive jurisdiction of the NLRB. San Diego Unions v. Garmon, 359 U.S. 236, 345 (1959). Plaintiff did, in fact, bring these charges before the NLRB, which found that defendant did not discharge plaintiff in violation of the NLRA. If plaintiff was dissatisfied with the NLRB's ruling, his sole recourse was to appeal that ruling to the Second Circuit Court of Appeals rather than to bring an action de novo in either federal or state court. 29 U.S.C. § 160(f). Plaintiff's claims of retaliation and discrimination must therefore be dismissed for lack of subject matter jurisdiction.

III. Breach of CBA Claim

Plaintiff's complaint also alleges that his discharge was in violation of the CBA. Such a claim is cognizable under section 301 of the NLRA, 29 U.S.C.

§ 185. Vaca v. Sipes, 386 U.S. 171, 179-180 (1967); Smith v. Evening News Assn., 371 U.S. 195, 200-01 (1962). The Supreme Court has recently ruled that a complaint, brought against both an employer for breach of a CBA and a union for breach of its duty of fair representation, is governed by the six-month limitation period of section 10(b) of the NLRA, 29 U.S.C. § 160(b). DelCostella v. International Brotherhood of Teamsters, ____ U.S. ____, 51 U.S.L.W. 4693 (1983). Although the instant action does not name the Union as a defendant, the CBA in question, like that involved in DelCostello, involved a grievance procedure with an agreement to arbitrate. This case is therefore different from Auto Workers v. Hoosier, 386 U.S. 696 (1966) in which the Supreme Court held that a suit by a union against an employer for breach of a CBA, which did not contain an agreement to

arbitrate, was governed by the state limitations periods for actions on contracts. There would appear to be no valid reason to extend the limitations period beyond that required by DelCostello simply because plaintiff has failed to include the union as a defendant. In fact, because the CBA contains an agreement to arbitrate, plaintiff may not recover against the defendant unless he proves that his Union breached its duty for fair representation in handling his grievance. Vaca v. Sipes, 386 U.S. 171, 186 (1967); DelCostello, supra at 4696. It is therefore appropriate to apply the six-month limitations period established by DelCostello for a "hybrid § 301/fair representation claim." Id. at 4697.

Plaintiff's argument that his cause of action did not accrue until his congressman responded to his letter is without merit. A cause of action for

wrongful discharge under a CBA accrues when the plaintiff knew, or should have known, that his discharge became final. Metz v. Tootsie Roll Industries, Inc., 715 F.2d 299, 303 (7th Cir. 1983). In this case, the plaintiff's discharge became final when the Union chose not to pursue the grievance any further. Therefore, plaintiff's cause of action accrued when he learned that the Union would not pursue the grievance. From his own statement, this occurred no later than early 1982. Applying the six-month limitations period of § 10(b), plaintiff's action was time-barred by the time this suit was filed in September, 1984.

Plaintiff has argued that his proceeding before the NLRB tolled the limitations period. The court is unpersuaded that plaintiff's claim under § 301 was within the jurisdiction of the NLRB so as to justify tolling of the

limitations period. However, even if the NLRB proceeding tolled the running of the statute of limitations, this proceeding terminated, at the very latest, on November 23, 1983, when the NLRB denied plaintiff's second request for reconsideration. Therefore, giving plaintiff the benefit of all doubts, his suit was filed over nine months after the completion of the NLRB proceeding, and was time-barred.

Plaintiff has also argued that his writing of a letter to his congressman should also toll the limitations period. Although writing to one's congressman may prove to be an effective way to pierce through governmental inaction, there is no basis in law for such a letter to toll the limitations period, absent some representation by the congressman misleading the individual regarding the accrual of his cause of action. The

court finds there is no basis to toll the limitations period because of plaintiff's letter to his congressman.

There being no disputed factual issues regarding when the plaintiff's cause of action accrued, it is appropriate to grant summary judgment in favor of defendant.

IV. Conclusion

The allegations of plaintiff's complaint alleging that his discharge was based upon discrimination and retaliation for his union activities are dismissed for lack of jurisdiction. Summary judgment is granted to defendant with respect to plaintiff's allegations of breach of the CBA. Accordingly, judgment shall enter in favor of defendant.

SO ORDERED.

ELLEN BREE BURNS
UNITED STATES DISTRICT JUDGE

Dated at New haven, Connecticut, this 21st day of March, 1985.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

PETER S. NIEDZWIECKI	)	
v.	)	CIVIL NO. B84-648 (EBB)
CIRCUIT PROTECTIVE DEVICES, Div. of Westinghouse Electric Corp.	)	

SUMMARY JUDGMENT

This cause came on for consideration on defendant's motion to dismiss before the Honorable Ellen Bree Burns, United States District Judge, and a Memorandum of Decision having been filed on March 22, 1985, granting summary judgment to the defendant.

It is ORDERED, ADJUDGED and DECREED that summary judgment be and is hereby entered in favor of the defendant.

Dated at New Haven, Connecticut, this 26th day of March, 1985.

KEVIN F. ROWE

CLERK, UNITED STATES
DISTRICT COURT

BY _____
DEPUTY IN CHARGE

WF/1k1

UNITED STATES COURT OF APPEALS

FOR THE

SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 25th day of November, one thousand nine hundred and eighty-five.

Present:

HONORABLE WILFRED FEINBERG,

Chief Judge

HONORABLE WALTER R. MANSIFLD,

HONORABLE JAMES L. OAKES,

Circuit Judges.

PETER S. NIEDZWIECKI,

Plaintiff-Appellant

- against - 85-7344

CIRCUIT PROTECTIVE DEVICES,
DIVISION OF WESTINGHOUSE ELECTRIC
CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court for the District of Connecticut.

This cause came on to be heard on the transcript of record from the United States District Court for the District of Connecticut, and was argued by appellant pro se and by counsel for appellee.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged and decreed that the judgment of said district court is AFFIRMED.

1. The district court construed appellant's complaint to state claims of discharge and harassment in retaliation for union activities and in violation of the collective bargaining agreement. As

to the former claim, we find that it was properly dismissed by the district court for lack of subject matter jurisdiction. These claims are clearly within the exclusive jurisdiction of the NLRB. San Diego Building Trades Council v. Garmon, 359 U.S. 236, 245 (1959). It should be noted, however, that one aspect of the district court's discussion of this issue requires further comment. The judge's opinion contained a suggestion that, if appellant objected to the NLRB General Counsel's failure to issue a complaint, appellant could have appealed that decision to this court. It is well established that an NLRB decision not to issue a complaint is not subject to appellate review. United Electrical Contractors Assoc. v. Ordman, 366 F.2d 776 (2d Cir. 1966) (per curiam), cert. denied, 385 U.S. 1026 (1967).

2. As to appellant's claim that the collective bargaining agreement was breached, we find that it was also properly dismissed by the district court as barred by the statute of limitations. The court correctly determined that the applicable limitations period is the six-month period contained in section 10(b) of the National Labor Relations Act, see DelCostello v. International Brotherhood of Teamsters, 462 U.S. 151(1983), and that more than six months had passed before appellant filed his complaint. Appellant argues that filing of a charge with the NLRB tolls the statute of limitations. We need not decide this issue, however, since, even if tolling applied, the complaint was still time-barred. The limitations period could at most have been tolled through November 23, 1983, when appellant's second request for reconsideration

was denied by the Board. This is more than nine months before the complaint was filed. We note that appellant was represented by counsel when he received the second denial of reconsideration. Finally, we find that there is no basis for the claim that the tolling period should run until appellant received a response from his congressman indicating that nothing more could be done.

3. We have considered all of appellant's arguments and find they are without merit.

WILFRED FEINBERG, Chief Judge

WALTER R. MANSFIELD,

JAMES L. OAKES,
Circuit Judges

UNITED STATES COURT OF

APPEALS

UNITED STATES COURTHOUSE

FOLEY SQUARE

NEW YORK 10007

PETER S. NIEDZWIECKI PLAINTIFF-APPELLANT PRO-SE v. CIRCUIT PROTECTIVE DEVICES, Div. of Westinghouse Electric Corp.	)	DOCKET NO. 85-7334 FEBRUARY 19, 1986

NOTICE OF APPEAL

Notice is hereby given that I Peter S. Niedzwiecki, Plaintiff-Appellant above named, hereby appeals to The United States Supreme Court from the judgment which order is dated November 25, 1985 and entered in the clerk's office of The United States Court of Appeals Second

Circuit, Foley Square, New York, on November 25, 1985, in accordance with 28 U.S.C. Section 2101.

By _____

Peter S. Niedzwiecki
231 West Avenue
Bridgeport, CT 06604
(203) 336-4075
PLAINTIFF-APPELLANT

At Bridgeport, Connecticut
February 19, 1986

Supreme Court, U.S.
FILED
APR 21 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 85-1584

IN THE
Supreme Court of the United States
OCTOBER TERM, 1985

PETER S. NIEDZWIECKI,
Petitioner,

v.

CIRCUIT PROTECTIVE DEVICES,
DIVISION OF WESTINGHOUSE ELECTRIC CORPORATION,
Respondent.

On Writ of Certiorari from the United States Court of Appeals for the Second Circuit

---

BRIEF IN OPPOSITION

JAY S. SIEGEL *
GEORGE E. FINLAYSON, JR.
SIEGEL, O'CONNOR, SCHIFF, ZANGARI
& KAINEN, P.C.
370 Asylum Street
Hartford, Connecticut 06103
Attorneys for Defendant-Respondent

* Counsel of Record

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

QUESTION PRESENTED

Whether review of this matter on certiorari is appropriate in view of the well settled law on the issues raised by petitioner which were applied by the courts below in dismissing the case thus placing it outside the ambit of Rule 17?

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

No. 85-1584

PETER S. NIEDZWIECKI,
Petitioner,

v.

CIRCUIT PROTECTIVE DEVICES,
DIVISION OF WESTINGHOUSE ELECTRIC CORPORATION,[1]
Respondent.

On Writ of Certiorari from the United States Court of Appeals for the Second Circuit

---

BRIEF IN OPPOSITION[2]

STATEMENT OF THE CASE

On September 6, 1984, petitioner Peter S. Niedzwiecki (hereinafter "petitioner") filed a complaint in the Su-

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[1] Pursuant to Rule 28.1 a special listing of all parent companies, subsidiaries and affiliate companies of Circuit Protective Devices is reproduced in Appendix form to this brief.

[2] Niedzwiecki has improperly characterized his petition for Supreme Court review as an "appeal." Pursuant to 28 U.S.C. Section 1254 he should have petitioned the court for a writ of certiorari. However, respondent will treat Niedzwiecki's Notice of Appeal and Jurisdictional Statement as if he had so petitioned.

perior Court of the State of Connecticut for the Judicial District of Fairfield at Bridgeport against respondent Circuit Protective Devices, Division of Westinghouse Electric Corp. (hereinafter "respondent" or "company"). The petitioner alleged he was discharged from employment with the respondent in retaliation for his union activities and filing unfair labor practice charges with the National Labor Relations Board (hereinafter "NLRB"). His action thus invoked two (2) sections of the National Labor Relations Act, 8(a)(3) and 8(a)(4), 29 U.S.C. Sections 158(a)(3) and 158(a)(4), hereinafter "Section 8(a)(3) and Section 8(a)(4)") which prohibits such conduct by an employer.

Also, petitioner alleged his discharge was in violation of a collective bargaining agreement between the company and the United Electrical, Radio and Machine Workers of America (hereinafter "union"). Thus, he asserted a claim in the action under Section 301 of the National Labor Relations Act, 29 U.S.C. Section 185(a) (hereinafter "section 301").

Respondent was served with the complaint on September 11, 1984, and on October 4, 1984, the action was removed from the state court to the United States District Court for the District of Connecticut. On November 9, 1984, respondent filed a Motion To Dismiss on the grounds that petitioner's claims challenging his discharge were preempted by the exclusive jurisdiction of the NLRB and petitioner's breach of contract claim was untimely.

The matter was argued before United States District Court Judge Ellen Bree Burns on March 1, 1985, and on March 21, 1985, Judge Burns issued a decision granting the motion [3] and dismissing the case in its entirety.

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[3] Respondent's Motion To Dismiss was treated as a Motion For Summary Judgment by the District Court as petitioner submitted matters outside of the pleadings in response to the Motion To Dismiss.

On March 26, 1985, Summary Judgment was entered in favor of respondent.

On April 25, 1985, petitioner filed an appeal to the United States Court of Appeals for the Second Circuit. The matter was fully briefed by both parties and argument was heard on November 21, 1985. On November 25, 1985, the Court of Appeals rendered it's decision finding petitioner's arguments without merit and affirmed the decision of the District Court.

Subsequently, on February 20, 1986, petitioner filed a Notice Of Appeal to the United States Supreme Court and on February 24, 1986, petitioner filed a Jurisdictional Statement. Thereafter, petitioner's Jurisdictional Statement was returned by the clerk to comply with the court's rules. Finally on March 20, 1986, petitioner filed another Jurisdictional Statement with the clerk and respondent was served with this document on March 21, 1986. This brief is filed in opposition to petitioner's request for Supreme Court review.

STATEMENT OF THE RELEVANT FACTS

The essential facts of this case as found by the District Court are not in dispute. The petitioner was employed by the Company from October 1975 until September 17, 1981, when he was discharged for repeated insubordination. While employed he was a member of the union which represented the production employees at the Company's plant and his employment was governed by the terms of a negotiated collective bargaining agreement.

In January 1981, while still employed there and acting in his capacity as union president, the petitioner filed two (2) unfair labor practice charges involving union matters against the company with the National Labor Relations Board. [He later claimed that the filing of those charges, as well as his other union activities, re-

sulted in the Company eventually discharging him.] In September 1981, petitioner filed an additional unfair labor practice charge against the Company with the NLRB challenging his discharge.[4]

On April 20, 1982, following an investigation of petitioner's charge over his termination the sub-regional office of the NLRB refused to issue a complaint against the Company and the charge was dismissed. He then exercised his statutory right of appeal to the General Counsel in Washington who affirmed the decision not to issue complaint. Upon petitioner's request additional review was given to the case but the NLRB General Counsel declined to change his decision not to prosecute. All NLRB proceedings in Washington concluded on November 23, 1983.

The petitioner then wrote a letter to his Congressman on March 10, 1984, later receiving a response on May 1, 1984 indicating that nothing further could be done.

The complaint challenging petitioner's discharge was not filed in the District Court until September 6, 1984, more than eight (8) months after conclusion of the NLRB proceedings.

SUMMARY OF ARGUMENT

Petitioner raises a mixture of garden variety issues which are now well settled by decisions of this court. His overall case suffers from a threshold jurisdictional infirmity of untimeliness which properly led the courts below to dismiss his claim. No new circumstances are

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[4] Petitioner filed a grievance with the union challenging his discharge. However, in early 1982 the union decided not to pursue petitioner's grievance and the matter was concluded. The precise date that the union declined to pursue petitioner's grievance to arbitration is unknown. However, at the hearing before the District Court petitioner admitted that the date was sometime in early 1982.

raised by petitioner meriting an appeal to this court for a different result.

ARGUMENT

PETITIONER RAISES NO CLAIMS WHICH WARRANT REVIEW UNDER WELL SETTLED LAW APPLIED BY THE COURTS BELOW

Petitioner has failed to carry his burden of demonstrating that the issues on appeal meet the test for review. Pursuant to Rule 17, Supreme Court review of a matter "will be granted only when there are special and important reasons therefor." In determining the question of review the court has examined the issues presented to determine if they raise questions of constitutional dimension, or novel questions relating to the interplay between state and federal law, or if there is a conflict among the circuit courts. *See, Rice v. Sioux City Memorial Park Cemetery*, 349 U.S. 70, 73-74 (1954); *Kossick v. United Fruit Co.*, 365 U.S. 731, 733 (1961); *Donaldson v. U.S.*, 400 U.S. 517, 522 (1971). When the issues presented fail to satisfy the mandate specified by Rule 17, certiorari has been denied. Here the issues presented by petitioner do not come within the ambit of Rule 17 and, therefore, the court should not grant his petition for certiorari.

Petitioner raises 6 issues for review thus, respondent will address each of those issues separately in the order specified by petitioner's jurisdictional statement.[3]

PETITIONER'S QUESTION NO. 1

Whether the N.L.R.B.'s final judgment dismissing a complaint is reviewable by a court at least where that

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[3] Petitioner filed two documents with the Court. The first on February 1986, listed only two (2) issues. The second, filed on March 20, 1986, contained not only the original ones but also four (4) additional issues.

judgment concedes that the appellant had demonstrated a prima-facie case, solely because respondent has asserted an alleged legitimate business reason in its defense.

RESPONSE:

The dismissal of Sections 8(a)(3) and 8(a)(4) unfair labor practice charges by the office of the General Counsel is judicially nonreviewable and was settled by *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 138-139. The federal courts have unanimously followed that decision. *See, International Association of Machinists and Aerospace Workers, AFL-CIO v. Lubbers*, 681 F.2d 598 (9th Cir. 1982), *cert. denied*, 385 U.S. 1026 (1967); *United Electrical Contractors Assoc. v. Ordman*, 366 F.2d 776 (2d Cir. 1966). Thus, the Second Circuit properly refused to permit such review which was entirely consistent with the mandates of this court.

To the extent that petitioner's suit before the District Court was a claim of discharge and harassment in retaliation for union activities the Second Circuit held that petitioner's claims of discharge from employment in violation of Sections 8(a)(3) and 8(a)(4) were pre-empted by the exclusive jurisdiction of the NLRB pursuant to *San Diego Building's Trade Council v. Garmon*, 359 U.S. 236 (1959). The Garmon doctrine represents long standing precedent which has been followed by the circuit below. *See, Abrams v. Carrier Corp.*, 434 F.2d 1234, 1253 (2d Cir. 1970), *cert. denied*, 401 U.S. 1009 (1971).

PETITIONER'S QUESTION NO. 2

Whether the statute of limitations for starting actions under the National Labor Relations Act, Section 301, Title 29 U.S.C. Section 185(a) is governed solely by *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151 (1983).

RESPONSE:

Since the holding in *Delcostello v. International Brotherhood of Teamsters*, 462 U.S. 151 (1983), this court has denied certiorari in literally dozens of cases that sought to challenge its validity. Petitioner here offers nothing to justify the court hearing him any more than his predecessors.

The Second Circuit ruled that petitioner's claims arising pursuant to Section 301 for breach of a collective bargaining agreement were untimely. It followed this court's decision in *DelCostello* and held that plaintiff's cause of action, according to the Second Circuit, accrued at the latest on November 23, 1983, more than six (6) months prior to his bringing suit on September 6, 1984. Therefore, it was properly dismissed under the *DelCostello* rule.

PETITIONER'S QESTION NO. 3

Whether the appellant has the right to bring an action under the ruling of *Vaca v. Sipes*, 386 U.S. 171 (1967).

RESPONSE:

Petitioner claims a cause of action pursuant to *Vaca v. Sipes*, 386 U.S. 171 (1967). This case permits a person to sue directly in the federal courts for breach of a collective bargaining agreement without resort to the grievance machinery in the agreement if there is also a claim that the union has failed to properly represent the worker. However, Section 301 actions brought pursuant to *Vaca* are governed, this court said, in *DelCostelio v. International Brotherhood of Teamsters, supra*, by a six (6) month statute of limitations.

Here, petitioner's action is somewhat based upon a breach of the collective bargaining agreement as well as unfair union representation. In fact, on numerous occasions in these proceedings petitioner alleged criticism of

the grievance and arbitration machinery specified by the collective bargaining agreement. However, petitioner conveniently ignores the fact that he was able to employ the grievance and arbitration machinery up to the last step before the union decided not to seek arbitration and then he waited approximately two and one-half (2½) years before bringing his action in the District Court. Thus, his *Vaca* claims under the *DelCostello* are clearly untimely.

PETITIONER'S QUESTION NO. 4

Whether filing a charge with the NLRB tolls the statute of limitations for filing a civil action. *Guerra v. Manchester Terminal*, 498 F.2d 641 (1974).

RESPONSE:

The filing of unfair labor practice charges with the NLRB does not toll the running of the statute of limitations for Section 301 actions nor extend the application of the six (6) month *DelCostello* rule. *See, Aarsvold v. Greyhound Lines, Inc.*, 742 F.2d 72 (8th Cir. 1983), *cert. denied*, 104 S. Ct. 3538 (1984); *Kolmick v. United Steelworkers of America*, 762 F.2d 354 (4th Cir. 1985).[6]

Further, since petitioner's lawsuit was not timely filed under the *DelCostello* rule, his argument as to whether or not the filing of a charge with the NLRB tolls the running of the six (6) month period is immaterial, as it would not have extended the time sufficiently in light of *DelCostello* to have allowed petitioner to otherwise

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[6] Petitioner's only cited authority for tolling is *Guerra v. Manchester Terminal*, 498 F.2d 641 (4th Cir. 1974). However, *Guerra* is irrelevant as it permitted the filing of an unfair labor practice charge with the NLRB to toll the period for filing a civil rights action pursuant to 42 U.S.C. Section 1981. Whether *Guerra* is still good law is highly doubtful in view of the court's holdings in *Johnson v. Railway Express Agency*, 421 U.S. 454 (1975) and *International Union of Electrical Workers v. Robbins & Myers, Inc.*, 429 U.S. 229 (1976).

timely institute the action. *See, Gray v. Local 714, International Union of Operating Engineers*, 778 F.2d 1087 (5th Cir. 1985).

PETITIONER'S QUESTION NO. 5

Whether a letter to Appellant's congressman tolls the statute of limitations for filing a civil suit.

RESPONSE:

As the Second Circuit held there is no legal basis for petitioner's claim that the letter from his Congressman to the NLRB tolls the statute of limitations for this lawsuit. He cites no authority for such a proposition, which is novel to say the least. Adoption of such a rule would open up the statute of limitations to an inordinate array of challenges if such an approach was promulgated by this court. Common sense plainly dictates against it.

PETITIONER'S QUESTION NO. 6

Whether the State of Connecticut statute of limitations on contracts governs the instant case because the contract bargaining agreement contained an unavailable and unused arbitration clause. *Auto Workers v. Hoosier*, 383 U.S. 696 (1966).

RESPONSE:

The short answer here is that this court *specifically* addressed this issue in *DelCostello*, *supra* at 462 U.S. 163 citing an earlier opinion by Justice Stewart and then held that "the factors that compelled adoption of state law in *Hoosier* did not apply to suits under *Vaca* and *Hines*, and that in the latter situation we should apply the federal limitations period in Section 301(b) 451 U.S. at 65-71. As we shall explain, we agree." Thus the Connecticut statute of limitations for breach of contract actions is clearly not applicable to this action.

CONCLUSION

Petitioner's appeal to the Supreme Court does nothing more than raise issues which have been long settled by the Court and universally applied throughout the federal court system. Petitioner has failed to demonstrate that his appeal raises any important or special issues or meets any of the considerations listed in Rule 17. The Petition for certiorari therefore should be denied.

JAY S. SIEGEL *
GEORGE E. FINLAYSON, JR.
SIEGEL, O'CONNOR, SCHIFF, ZANGARI
& KAINEN, P.C.
370 Asylum Street
Hartford, Connecticut 06103
Attorneys for Defendant-Respondent

* Counsel of Record

April 21, 1986

WHOLLY AND PARTIALLY OWNED SUBSIDIARIES OF WESTINGHOUSE ELECTRIC CORPORATION

WHOLLY AND PARTIALLY OWNED SUBSIDIARIES OF WESTINGHOUSE ELECTRIC CORPORATION

Name	Incorporated In	% of Ownership
Adams Elevator Equipment Company	Delaware	100
American Elevator Co., Inc.	California	100
Avalon Food & Beverage, Inc.	Delaware	100
Bolting Services, Inc.	California	100
Caribe Industrial & Electrical Supplies, Inc.	Puerto Rico	100
Cebor Construction Corporation	Delaware	100
Circle W Transportation, Inc.	Delaware	100
Compagnie des Dispositifs Semiconducteurs Westinghouse (CDSW)	France	84.29
Consolidated Elevator Co., Inc.	District of Columbia	100
Consolidated Elevator Co., Inc.	Maryland	100
Consolidated Elevator Co., Inc.	Virginia	100
EMCO Elevators, Inc.	Ohio	100
Eastern Elevator Company of New Jersey, Inc.	Delaware	100
Eastern Elevator Company of New Jersey, Inc.	New Jersey	100
Echo-Ram Technology, Inc.	Delaware	100
Electric Arc, Inc.	Delaware	100
Electrical Specialty Products Co.	Alabama	100

Name	Incorporated In	% of Ownership
Eletrocontroles Villares, Ltda. (EVL)	Brazil	30.0
Electronic Office Centers of America Corporation	?	40
Eletromar Industria Eletrica Brasileira, S.A.	Brazil	87
Eletromar Nordeste, S.A.	Brazil	100
Elevator Products Corp.	New Jersey	100
Elliott Valve Repair Company, Inc.	Texas	100
Email Limited	Australia	.30
Energy Systems Installation, Inc.	Delaware	100
Enhanced Building Services, Inc.	Delaware	100
Ercole Marelli & Company, S.p.A.	Italy	1.9
Escorts, Ltd.	India	1.4
Fabricante de Productos Industriales, S.A. de C.V.	Mexico	100
Fortin Industries, Inc.	Delaware	100
Fortin Laminating Export, Inc.	California	100
Fortin Laminating Limited	United Kingdom	100
Fortin Laminating S.A.	France	100
Franco Tosi S.p.A.	Italy	.3
Galileo Argentina C.I.S.A.	Argentina	40.73
Galileo Uruguaya, S.A.	Uruguay	91.70
Galileo La Rioja	Argentina	100
Gateway Fleet Company	Pennsylvania	100

Gladwin Corporation	Delaware	100
Gladwin-Canada Inc.	Canada	100
Gladwin of Indiana, Inc.	Indiana	100
Global Power Company	Delaware	100
Grundstuecks-Verwaltungsgesellschaft Genfer Strasse mbH (GVG)	West Germany	100
Heat Engineering, Inc.	Delaware	100
Houston Elevator Company	Texas	100
Hub Electric Company, Inc.	Illinois	100
Hundt & Weber Schaltgerate GmbH	West Germany	100
Hydro Nuclear Services, Inc.	Delaware	100
Industria IEM, S.A. de C.V.	Mexico	9.0
Innovative Technologies, Inc.	Delaware	50
International Leasing, Inc.	Delaware	100
Iran-Westinghouse Programs Service Company	Delaware	100
Irwin Industries, Inc.	California	100
LABCO of Louisiana, Inc.	Delaware	100
Longines-Wittnauer, Inc.	Delaware	100
Credit Services, Inc.	New York	100
Wittnauer et Cie., S.A.	Switzerland	100
Luxaire, Inc.	Delaware	100
Moncrief Furnace and Air Conditioning Company	Ohio	100

Name	Incorporated In	% of Ownership
Maihak A. G. (H.)	West Germany	89
Maihak Nederland B.V. (H.)	Netherlands	100
Maihak Ges. mbH (H.)	France	100
Maihak SARL (H.)	France	100
Maihak Australia Pty., Ltd.	Australia	100
Manufactura de Bobinas S.A. de C.V.	Mexico	100
Mecanica Pesada, S.A.	Brazil	2.1
Mex Control S.A. de C.V.	Mexico	49.0
Mictron, Inc.	?	45
Millar Elevator Industries, Inc.	Delaware	100
Mitsubishi Electric Corporation	Japan	1.27
Mitsubishi Nuclear Fuel Co., Ltd.	Japan	34.0
Moorhead Machinery & Boiler Company	Delaware	100
Motor Control Corporation	California	100
Motores Electricos de Juarez S.A. de C.V.	Mexico	99.9
Multi-Lam, Inc.	Massachusetts	100
Numanco, Inc.	Delaware	100
O'Connor Combustor Corporation	California	100
Ottermill Limited	United Kingdom	100
Ottermill Switchgear Limited	United Kingdom	100

Ottermill Chilton Limited	United Kingdom	100
Ottermill Products Limited	United Kingdom	100
Perceptics	?	38
Perry Shankle Company (The)	Texas	100
Power Cutting, Inc.	Illinois	100
Powerex, Inc.	Delaware	45
Semiconductores Powerex, Inc.	Delaware	100
Precision Rebuilders, Inc.	Delaware	100
Process Mechanical, Inc.	Delaware	100
Schneider S.A.	France	.63
7-Up Bottling Co., Inc.	Puerto Rico	100
Sentec Corporation	Delaware	49
Serratosa & Castello, S.A.	Uraguay	5.9
Seven-Up Bottling Co. of Visalia	California	100
Siam di Tella, Ltd.	Argentina	4.17
Siam di Tella, Ltd.	Uraguay	5.9
Silectra S.A. de C.V.	Mexico	40.0
Siliconix, Inc.	California	35.3
Speech Plus	California	11
Standard Elevator Co., Inc.	Maryland	100
Superior-Sterling Company	West Virginia	100
TCOM Corporation	Delaware	100
TSC, Inc.	Ohio	100

Name	Incorporated In	% of Ownership
Thermo King Corporation	Delaware	100
Thermo King of Southern California, Inc.	Delaware	100
Theta J Corporation	Massachusetts	3.4
Toshiba Westinghouse Electronics Corporation	Maryland	50
Turbine Metal Technologies, Inc.	?	30
Turtle Creek and Allegheny River Railroad Company (The)	Pennsylvania	100
Tyree Industries Limited	Australia	68.8
Endurance Electric Pty. Limited	Australia	100
Moorebank Properties Pty. Limited	Australia	100
Tranco Electronics Pty. Limited	Australia	100
Tyree Electrical Co. Pty. Limited	Australia	100
Tyree Industries (N.Z.) Pty. Limited	New Zealand	100
Tyree Industries (Qld.) Pty. Limited	Australia	100
Tyree Industries (S.A.) Pty. Limited	Australia	100
Tyree Industries (Vic.) Pty. Limited	Australia	100
Tyree-Power Construction Limited	New Zealand	49.9
Tyree-Power Construction (Auckland) Limited	New Zealand	100
W. T. Engineering Pty. Limited	Australia	100
Westralian Transformers Pty. Limited	Australia	100
Westrans (W.A.) Pty. Limited	Australia	100
Westralian Transformers Pty. Limited	Australia	37.5

Unimation Incorporated	Delaware	100
Unimation International	Delaware	100
Unimation (Europe) Ltd.	United Kingdom	100
United Elevator Corporation	California	100
United Western Technologies Corp.	Delaware	10
Valrecon, Inc.	Delaware	100
Vektron S.A.	Mexico	24.5
VenWest, Inc.	Delaware	100
W & S Systems, Inc.	Delaware	100
W. S. Insulators	India	2.5
WM Power Products, Inc.	Delaware	50
West Valley Nuclear Service Company, Inc.	Delaware	100
Western Elevator Company, Inc.	California	100
Westinghouse Beverage Group, Inc.	Delaware	100
Porta Pack Corporation	Delaware	50
Westinghouse Beverage Group of Arizona, Inc.	Delaware	100
Westinghouse Broadcasting and Cable, Inc.	Indiana	100
CATV Enterprises, Inc.	New York	100
Group W Cable, Inc.	New York	100
Bridgeport Community Antenna TV Co.	Connecticut	95
Cable TV General, Inc.	Delaware	80.0

Name	Incorporated In	% of Ownership
Cablevision Training Centers, Inc. (Assets sold 1/1/83—will be dissolved)	Missouri	100
El Paso Cablevision, Inc.	Texas	74.67
Filmation Associates	Nevada	80
Shermly Music Company, Inc.	California	100
Focus Cable of Oakland, Inc.	California	80
Grosse Point Cable, Inc.	Michigan	25
Group W Advertising Agency, Inc.	Michigan	100
Group W Cable of Burnsville/Eagan, Inc.	Minnesota	
Group W Cable of Chicago Associates, Inc.	Illinois	100
Group W Cable of Columbia Heights/Hilltop, Inc.	Minnesota	80
Group W Cable of Grapevine, Inc.	Texas	100
Group W Cable of Lewisville, Inc.	Texas	100
Group W Cable of Lorain County, Inc.	Ohio	80
Group W Cable of the North Central Suburbs, Inc.	Minnesota	100
Group W Cable of the North Suburbs, Inc.	Minnesota	100
Group W Cable of Quad Cities, Inc.	Minnesota	100
Group W Cable of Ramsey, Washington, Inc.	Minnesota	100
Group W Cable of St. Bernard, Inc.	Louisiana	80
Group W Video, Inc.	Washington	100
North Suffolk CATV Systems, Inc.	New York	100
Piedmont Cablevision, Inc.	California	80

Saw Mill River Cablevision, Inc.	New York	85
Southwest Video Corp. (d/b/a Group W Cable)	Teaxs	97.5
Telcom Cablevision, Inc.	Delaware	80
Teleprompter Cable Systems, Inc.	Illinois	100
Teleprompter Communications, Inc.	New York	100
Teleprompter County Cable TV Corp.	New York	100
Teleprompter International Corporation	New York	100
Teleprompter of Bellflower, Inc.	California	100
Teleprompter of Clarksburg, Inc. (d/b/a Group W Cable)	West Virginia	100
Teleprompter of East San Fernando Valley, Inc.	California	100
Teleprompter of Fairmont, Inc. (d/b/a Group W Cable)	West Virginia	100
Teleprompter of Oregon, Inc.	Oregon	100
Wired Music, Inc.	Illinois	100
Group W Cable Productions, Inc.	New York	100
Group W Radio, Inc.	Delaware	100
Group W Radio, Inc. (Cal.)	Delaware	100
Group W Radio, Inc. (Colorado)	Delaware	100
Group W Radio, Inc. (Mass.)	Delaware	100
Group W Television, Inc.	Delaware	100
Horizon International Television, Inc.	California	50
Group W Television, Inc. (Cal.)	Delaware	100
Group W Television, Inc. (Mass.)	Delaware	100
Home Theater Network, Inc.	Maine	100
Micro-Relay, Inc.	Maryland	100

Name	Incorporated In	% of Ownership
Muzak, Inc.	Delaware	100
PM Magazine Program Service, Inc.	Delaware	100
Westinghouse Broadcasting and Cable, Inc. (Cal.)	Delaware	100
Westinghouse Broadcasting and Cable, Inc. (Mass.)	Delaware	100
W-F Productions, Inc.	Delaware	100
Z Channel, Inc.	Delaware	100
Westinghouse Canada Inc.	Canada	95.2
B. F. Sturtevant Canada Inc.	Canada	100
Electrics (1978) Inc.	Canada	100
Wescan Europe Limited	Ireland	100
Westinghouse-Chester Branch, Inc.	Delaware	100
Westinghouse Combustion Turbine Services, Ltd.	Delaware	100
Westinghouse Communication Services, Inc.	Delaware	100
Westinghouse Communities, Inc.	Delaware	100
Coral Ridge Properties, Inc.	Delaware	100
Coral Highlands Association, Inc.	Florida	100
Coral Ridge Holding Corp.	Florida	100
Coral Ridge Investment Corp.	Florida	100
Cyprus Run Square	Florida	100
Coral Ridge Realty, Inc.	Florida	100
Coral Ridge Realty Sales, Inc.	Florida	100

Coral Ridge Service Corp.	Florida	100
Coral Springs Realty, Inc.	Florida	100
Florida National Properties, Inc.	Florida	100
Highland General Corporation	Florida	100
New Community Development Group Corporation	Florida	100
Ocean Mile Association, Inc.	Florida	100
Half Moon Bay Properties, Inc.	Delaware	100
Half Moon Bay Construction, Inc.	California	100
Half Moon Bay Realty, Inc.	California	100
Resources Design, Inc.	California	100
Westinghouse Communities of Arizona, Inc.	Arizona	100
Westinghouse Communities of Naples, Inc.	Florida	100
The Club at Pelican Bay	Florida	100
Pelican Bay Beach Club, Inc.	Florida	100
Pelican Bay Development, Inc.	Florida	100
Pelican Bay Properties, Inc.	Florida	100
Pelican Bay Realty, Inc.	Florida	100
Pelican Bay Service Corporation	Florida	100
Pelican's Nest Investments, Inc.	Florida	100
Westinghouse Communities of Naples Investment, Inc.	Florida	100
Westinghouse Gateway Communities, Inc.	Florida	100
Westinghouse Construction International, Inc.	Delaware	100
Westinghouse Corporation	Pennsylvania	100

Name	Incorporated In	% of Ownership
Westinghouse Credit Corporation	Delaware	100
First Hotel Investment Corporation	Delaware	100
First Tanker Leasing Corporation	Delaware	100
First Westinghouse Capital Corporation	Delaware	100
Lakewood Shores Golf and Country Club, Inc.	Michigan	100
Penn Insurance Agency, Inc.	California	100
Westinghouse Leasing Corporation	Delaware	100
Westinghouse Securities Corporation	Delaware	100
Westinghouse de Puerto Rico, Inc.	Delaware	100
Westinghouse de Venezuela, S.A. (VENWESA)	Venezuela	100
Ascensores Westinghouse, S.A. (AWESA)	Venezuela	100
Industrias Electronicas, S.A. (INDELEC)	Venezuela	20.0
Productos Electricos Westinghouse, S.A. (PEWESA)	Venezuela	100
Projectos Westinghouse C.A. (PROWECA)	Venezuela	100
Servicios Industriales Westinghouse, C.A. (SERWESTCA)	Venezuela	100
Transformadores de Distribucion Trade, S.A. (TRADESA)	Venezuela	40.0
Westinghouse Electro Metalurgicas C.A. (WEMCA)	Venezuela	78.82
Luz-A-Tec Sistemas Integrados C.A.	Venezuela	100
Westinghouse Defense International Limited (WDI)	Australia	100
Westinghouse Defense International Marketing Company	Delaware	100

Westinghouse do Brasil S.A. (WEBSA)	Brazil	100
CMW Sistemas, Ltda. (CMWS)	Brazil	49.0
CMW Equipamentos, Ltda. (CMWE)	Brazil	49.0
Eletromar Industria Electrica Brasileira, S.A.	Brazil	12
Westinghouse do Nordeste S.A.	Brazil	100
Westinghouse Electric Advanced Production Technology, Limited	Delaware	100
Westinghouse Electric S.A. (WELSA)	Switzerland	100
Westinghouse Controlmatic GmbH	West Germany	100
Westinghouse Electric GmbH (WELGES)	West Germany	100
Westinghouse Electric (Asia-Pacific) Holdings, Ltd. (WEAPHL)	Singapore	100
Westinghouse Electric (Singapore) Ltd.	Singapore	100
Industry Services Company of Saudi Arabia, Ltd. (ISCOA)	Saudi Arabia	75.0
Galileo Argentina, C.I.S.A.	Argentina	17.0
Galileo Uruguaya, S.A.	Uruguay	91.70
Westinghouse Monitor A.B.	Sweden	100
Sterwech, B.V.	Netherlands	100
Westinghouse Electrotechniek en Instrumentatie B.V. (WENI)	Netherlands	100
Controle et Applications	Netherlands	100
Thermo King do Brasil Ltda.	Brazil	100
Westinghouse, S.A. (WESA)	Spain	51
Iberatomica	Spain	8

Name	Incorporated In	% of Ownership
Westinghouse Projectos Electricos, S.A. (WEPESA)	Spain	30.30
Westinghouse Asia Controls Corp.	Philippines	66.66
Westinghouse Electrique France, S.A.	France	100
Westinghouse Electric GmbH S.A.R.L. (WEG)	Switzerland	100
Ercole Marelli & Company, S.p.A.	Italy	4.0
Westinghouse Irish Holdings Limited	Ireland	100
CDSW Ireland Limited	Ireland	100
Westinghouse Electric Sales and Services Limited	Ireland	100
Westinghouse Electric Ireland Limited	Ireland	100
Westinghouse Electric Manufacturing Company Limited	Ireland	100
Westinghouse Electric Systems and Logistics, Inc.	Ireland	100
Westinghouse Electric, S.p.A. (WESPA)	Italy	100
Westinghouse Electric GmbH Birsfelden (WEG)	Switzerland	100
Westinghouse Electric (Asia) S.A.	Switzerland	100
Elektrik Techizati Imalti Tesisati, A.S.	Turkey	4.23
Korea Industry Services Co., Ltd.	Korea	60
Hyosung Heavy Industries, Ltd.	Korea	4.5
Westinghouse Thermo King, GmbH	Switzerland	100
Westinghouse Trading Company Ltd.	Switzerland	100
Westinghouse Electric Supply Company of Saudi Arabia (WESCOSA)	Saudi Arabia	60.0

Westinghouse International Services, S.A. (WISSA)	Belgium	100
IEM S.A.	Mexico	23.7
Industria IEM, S.A. de C.V.	Mexico	91.0
Mex Control, S.A. de C.V.	Mexico	51.0
Silectra, S.A. de C.V.	Mexico	60.0
WEXICO Systems and Services, Ltd.	Saudi Arabia	40.0
Westinghouse Electric (Japan) K.K.	Japan	100
China Industry Services Co., Ltd.	Taiwan	75.0
Transformadores TPL S.A.	Colombia	42.3
Westinghouse Saudi Arabia Ltd. (WSAL)	Saudi Arabia	100
Westinghouse Electric (China) S.A., Zug (WECSA)	Switzerland	100
Westinghouse Fanal GmbH	West Germany	100
Electro—Fanal S.A.	Brazil	65.0
Metzenauer & Jung BV	Netherlands	100
Norddeutsche Elektrotechnische Werke Metzenauer & Jung GmbH	West Germany	100
Westinghouse Fanal, Ltd.	United Kingdom	100
Mitsubishi—Westinghouse Electric SGC, Ltd.	Japan	50
Westinghouse Taiwan Corporation	Taiwan	100
Westinghouse Electric Australia Holdings Limited	Australia	100
Cemac Westinghouse Pty. Ltd.	Australia	50.0
Westinghouse Electric Australasia Limited (WEAL)	Australia	100
Standard-Waygood of S.A. Limited	Australia	100
Westinghouse Electric Company, S.A. (WECOSA)	Delaware	100
Contradores Electricos, C.A.	Ecuador	19

Name	Incorporated In	% of Ownership
Westinghouse do Brasil Servicos Ltda. (WEBRA)	Brazil	100
Westinghouse Electric Company of Korea	Korea	100
Westinghouse Electric Europe S.A. (WEESA)	Belgium	100
Westinghouse Electric Export Corporation	Delaware	100
Westinghouse Electric Research and Engineering for Atomic Systems, Inc.	Delaware	100
Westinghouse Electrique Europe, S.A.	France	100
Westinghouse Electronics Integration Corporation	Delaware	100
Westinghouse Hanford Company	Delaware	100
Westinghouse Hittman Nuclear Incorporated	Delaware	100
Hittman Transport Services, Inc.	Delaware	100
Westinghouse Idaho Nuclear Company, Inc.	Delaware	100
Westinghouse Industry Products International Company, Inc.	Delaware	100
Westinghouse Industry Services International Company, Inc. (WISICO)	Delaware	100
Westinghouse Industry Services Asia Private Limited	Singapore	100
Westinghouse Saudi Arabia Ltd. (WSAL)	Saudi Arabia	10.0
Westinghouse International Atomic Power Co. S.A. (WIAPCO)	Switzerland	100
Westinghouse International Power Systems Company, Inc. (WIPSCO)	Delaware	100

Westinghouse Sistemas Eletricos Ltda. (WSEL)	Brazil	100
Westinghouse International Projects Company	Delaware	100
Westinghouse International Service Company, Limited	Delaware	100
Westinghouse International Services B.V.	Netherlands	100
Westinghouse International Support Services, Inc.	Delaware	100
Westinghouse International Technology Corporation	Delaware	100
Westinghouse Management Services, Inc.	Delaware	100
Westinghouse Management Systems, S.A.	France	100
Westinghouse (New Zealand) Limited	New Zealand	100
Westinghouse Nuclear International, Inc.	Delaware	100
Westinghouse Nuclear Espanola, Inc.	Delaware	100
Westinghouse Nuclear Japan, Inc.	Delaware	100
Westinghouse Overseas Service Corporation	Delaware	100
Westinghouse Pension Investments Corporation	Delaware	100
Westinghouse Projectos Electricos, S.A. (WEPESA)	Spain	40.0
Westinghouse, S.A.	Spain	11.29
Westinghouse Scandinavia A.B. (WESCAN)	Sweden	100
Westinghouse Sistemas Industriais Ltda. (WSIL)	Brazil	100
Westinghouse Technical Services Corporation	Delaware	100
Westinghouse Thermo King, S.A.	Belgium	100
Westinghouse Transport Leasing Corporation	Delaware	100
Westinghouse World Investment Corporation	Delaware	100
Galileo Argentina, C.I.S.A.	Argentina	34.0
Galileo Uruguaya, S.A.	Uruguay	91.70

Name	Incorporated In	% of Ownership
IEM S.A.	Mexico	19.59
Mex Control, S.A. de C.V.	Mexico	51.0
Silectra, S.A. de C.V.	Mexico	60.0
Industria IEM, S.A. de C.V.	Mexico	91.0
Mitsubishi Electric Corporation	Japan	3.29
Westinghouse Foreign Sales Corporation	Barbados	100
Westinghouse Foreign Sales Corporation	Virgin Islands	100

ACRONYMS

AWESA	—	Ascensores Westinghouse, S.A.
CDSW	—	Compagnie des Dispositifs Semiconducteurs Westinghouse
CMWE	—	CMW Equipamentos, Ltda.
CMWS	—	CMW Sistemas, Ltda.
INDELEC	—	Industrias Electronicas, S.A.
ISCOSA	—	Industry Services Company of Saudi Arabia, Ltd.
PEWESA	—	Productos Electricos Westinghouse, S.A.
PROWECA	—	Proyectos Westinghouse C.A.
SERWESTCA	—	Servicios Industriales Westinghouse, C.A.
TRADESA	—	Transformadores de Distribucion Trade, S.A.
TUWESTCA	—	Tubos Westinghouse C.A.
VENWESA	—	Westinghouse de Venezuela, S.A.
WBC	—	Westinghouse Broadcasting and Cable, Inc.
WCC	—	Westinghouse Credit Corporation
WEAL	—	Westinghouse Electric Australasia Limited
WEBRA	—	Westinghouse do Brasil Servicos Ltda.
WEBSA	—	Westinghouse do Brasil S.A.
WECOSA	—	Westinghouse Electric Company, S.A.
WEESA	—	Westinghouse Electric Europe S.A.

WELGES	—	Westinghouse Electric GmbH
WELSA	—	Westinghouse Electric S.A.
WEMCA	—	Westinghouse Electro Metalurgicas C.A.
WEPESA	—	Westinghouse Proyectos Electricos, S.A.
WESA	—	Westinghouse, S.A.
WESCOSA	—	Westinghouse Electric Supply Company of Saudi Arabia
WESPA	—	Westinghouse Electric, S.p.A.
WIAPCO	—	Westinghouse International Atomic Power Co. S.A.
WIPCO	—	Westinghouse International Projects Company
WIPSCO	—	Westinghouse International Power Systems Company, Inc.
WISC	—	Westinghouse International Service Company, Limited
WISICO	—	Westinghouse Industry Services International Company, Inc.
WISSA	—	Westinghouse International Services, S.A.
WITCORP	—	Westinghouse International Technology Corporation
WNI	—	Westinghouse Nuclear International, Inc.
WOSCO	—	Westinghouse Overseas Service Corporation
WSAL	—	Westinghouse Saudi Arabia Ltd.
WSEL	—	Westinghouse Sistemas Electricos Ltda.
WSIL	—	Westinghouse Sistemas Industriais Ltda.